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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,294	10/15/2004	Klaus Lenhart	2502 0166US	2233

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EXAMINER	
GARCIA, ERNESTO	

ART UNIT	PAPER NUMBER
3679	

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08/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/511,294	LENHART, KLAUS	
	Examiner	Art Unit	
	ERNESTO GARCIA	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-17 and 19* is/are pending in the application.

4a) Of the above claim(s) *13 and 14* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-10,12,15-17 and 19* is/are rejected.

7)☒ Claim(s) *11* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 April 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: Machine translations of DE-29706849 and CH-267177.

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election of Species

Claims 13 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on September 20, 2006.

Drawings

The drawings were received on December 10, 2007. These drawings are acceptable; however, the drawings contain a discrepancy.

The drawings are objected to because the two fins in Figure 1 have been identified as "41" and "42", while the same both fins have been identified as "41" in Figure 3.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "the inner cone opening from an apex towards the end of the inner tube" recited in claim 19, line 10.

Claim Objections

Claims 8 and 10 are objected to because of the following informalities:

regarding claim 8, "at axially" in line 26 should be --axially at--; and,

regarding claim 10, "it" in line 24 should be defined. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 103

Claims 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart, DE-29,706,849, in view of Neuheiten, CH-267,177.

Regarding claim 8, Lenhart discloses, in Figures 1 and 5, an adjustable-length pole comprising at least one outer tube **12**, an inner tube **11** structured, an adjusting screw **118'**, a radially spreadable element **116**, and an axially moveable interior element **117**. The inner tube **11** is dimensioned for insertion into the outer tube **12** in a telescoping fashion. A limit stop **19** is disposed at an end **13** of the inner tube **11**. The adjusting screw **118'** is axially oriented within the outer tube **12**, non-rotatable with respect to the inner tube **11**, and supported in a fixed manner on the end of the inner tube **11**. A limit stop **126** is disposed on the free end of the adjusting screw **118'**. The spreadable element **116** has a non-threaded bore **A1** (see marked-up attachment) and

an inner cone **122'**. The inner cone **122'** opens towards the end of the inner tube **11**. The spreadable element **116** is disposed with its axial length between the limit stop **19** disposed at the end of the inner tube **11** and the limit stop **126** disposed on the free end of the adjusting screw **118'**. A distance **A2** between the limit stops **19**, **126** is larger than the axial length of the radially spreadable element **116** by a gap distance **A3** such that the spreadable element **116** is able to move axially within the distance between the limit stops including the gap distance **A3**. The interior element **117** has an internal threaded bore **A4** (note that the interior element is threaded as that shown in DSI, DE-8,004,343) and outer cone **127'** structured, dimensioned, and disposed for cooperation with the inner cone **122'**. The interior element **117** is screwed onto the adjusting screw **118'** and able to axially move with respect to the inner tube 11 by rotation thereof via the internal threaded bore **A4**. The spreadable element **116** and the interior element **117** cooperate and form a spreading device axially supported at the end of the inner tube **11**. However, Lenhart fails to disclose the inner cone **122'** being only one single inner cone of the spreadable element since spreadable element has two inner cones. Neuheiten teaches, between Figures 5 and 6, that a spreading element can have one inner cone or two inner cones as similarly taught in Lenhart. Neuheiten teaches alternative configurations in order to minimize parts so that the lower cone only holds (see attachment of machine translation; paragraph 9). Therefore, as taught by Neuheiten, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the inner cone **122'** of Lenhart be the only one single inner

cone to minimize the number of parts as an alternative configuration so that the lower cone only holds.

Regarding claim 9, the pole is a ski or a walking stick.

Regarding claim 12, the limit stop **126** disposed on the free end of the adjusting screw is a cap that is axially secured at the free end of the adjusting screw **118'** is a cap axially secured at the free end of the adjusting screw after the radially spreadable element has been set in place.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart, DE-29,706,849, in view of Neuheiten, CH-267,177, and further in view of DSI, DE-8,004,343U1.

Regarding claim 17, Lenhart discloses, in Figures 1 and 5, an adjustable-length pole comprising at least one outer tube **12**, an inner tube **11** structured, an adjusting screw **118'**, a radially spreadable element **116**, and an axially moveable interior element **117**. The inner tube **11** is dimensioned for insertion into the outer tube **12** in a telescoping fashion. A limit stop **19** is disposed at an end **13** of the inner tube **11**. The adjusting screw **118'** is axially oriented within the outer tube **12**, non-rotatable with respect to the inner tube **11**, and supported in a fixed manner on the end of the inner tube **11**. A limit stop **126** is disposed on the free end of the adjusting screw **118'**. The

spreadable element **116** has a non-threaded bore **A1** (see marked-up attachment) and an inner cone **122'**. The inner cone **122'** opens towards the end of the inner tube **11**. The spreadable element **116** is disposed with its axial length between the limit stop **19** disposed at the end of the inner tube **11** and the limit stop **126** disposed on the free end of the adjusting screw **118'**. A distance **A2** between the limit stops **19**, **126** is larger than the axial length of the radially spreadable element **116** by a gap distance **A3** such that the spreadable element **116** is able to move axially within the distance between the limit stops including the gap distance **A3**. The interior element **117** has an internal threaded bore **A4** and outer cone **127'** structured, dimensioned, and disposed for cooperation with the inner cone **122'**. The interior element **117** is able to axially move with respect to the inner tube 11 by rotation thereof via the internal threaded bore **A4**. The spreadable element **116** and the interior element **117** cooperate and form a spreading device axially supported at the end of the inner tube **11**. However, Lenhart fails to disclose the inner cone **122'** being only one single inner cone of the spreadable element since spreadable element has two inner cones, and the radially spreadable element being configured as a pot having a base penetrated by a free end area of the adjusting screw, facing away from the inner tube **11**.

Neuheiten teaches, between Figures 5 and 6, that a spreading element can have one inner cone or two inner cones as similarly taught in Lenhart. Neuheiten teaches alternative configurations in order to minimize parts. Therefore, as taught by Neuheiten, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to make the inner cone **122'** of Lenhart be the only one single inner cone to minimize the number of parts as an alternative configuration.

DSI teaches, in Figure 1, a radially spreadable element 10 configured as a pot having a base penetrated by a free end area of an adjusting screw 5 facing away from the inner tube 3 as an alternative configuration for a radially spreadable element 10 with having only one single inner cone (the conical surface). Therefore, as taught by DSI, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the configuration of the spreadable element 116, as modified by Neuheiten, with that of DSI to use with the spreading element modified to have only one single inner cone.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart, DE-29,706,849, in view of Neuheiten, CH-267,177, and further in view of Kupski, 3,145,669.

Regarding claim 15, Lenhart discloses, in Figures 1 and 5, an adjustable-length pole comprising at least one outer tube **12**, an inner tube **11** structured, an adjusting screw **118'**, a radially spreadable element **116**, and an axially moveable interior element **117**. The inner tube **11** is dimensioned for insertion into the outer tube **12** in a telescoping fashion. A limit stop **19** is disposed at an end **13** of the inner tube **11**. The adjusting screw **118'** is axially oriented within the outer tube **12**, non-rotatable with

respect to the inner tube **11**, and supported in a fixed manner on the end of the inner tube **11**. A limit stop **126** is disposed on the free end of the adjusting screw **118'**. The spreadable element **116** has a non-threaded bore **A1** (see marked-up attachment) and an inner cone **122'**. The inner cone **122'** opens towards the end of the inner tube **11**. The spreadable element **116** is disposed with its axial length between the limit stop **19** disposed at the end of the inner tube **11** and the limit stop **126** disposed on the free end of the adjusting screw **118'**. A distance **A2** between the limit stops **19**, **126** is larger than the axial length of the radially spreadable element **116** by a gap distance **A3** such that the spreadable element **116** is able to move axially within the distance between the limit stops including the gap distance **A3**. The interior element **117** has an internal threaded bore **A4** and outer cone **127'** structured, dimensioned, and disposed for cooperation with the inner cone **122'**. The interior element **117** is screwed onto the adjusting screw **118'** and able to axially move with respect to the inner tube 11 by rotation thereof via the internal threaded bore **A4**. The spreadable element **116** and the interior element **117** cooperate and form a spreading device axially supported at the end of the inner tube **11**. The spreading element **116** has axial slots (see Figure 6). However, Lenhart fails to disclose the inner cone **122'** being only one single inner cone of the spreadable element since spreadable element has two inner cones. Further, Lenhart fails to disclose the interior element **117** having protruding fins respectively guided in the axial slots of the spreading element **32**.

Neuheiten teaches, between Figures 5 and 6, that a spreading element can have one inner cone or two inner cones as similarly taught in Lenhart. Neuheiten teaches alternative configurations in order to minimize parts. Therefore, as taught by Neuheiten, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the inner cone **122'** of Lenhart be the only one single inner cone to minimize the number of parts as an alternative configuration.

Kupski teach, in Figure, 5, an interior element **17** having protruding fins **33** guided in axial slots **30** of a spreading element **16** to prevent the interior element from rotating relative to the spreading element. Therefore, as taught by Kupski, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a fin in the interior element of Lenhart guided in the axial slots of the spreading element of Lenhart to prevent the interior element from rotating relative to the spreading element.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart, DE-29,706,849, in view of Neuheiten, CH-267,177, and further in view of DSI, DE-8,004,343U1, and Kupski, 3,145,669.

Regarding claim 16, Lenhart discloses, in Figures 1 and 5, an adjustable-length pole comprising at least one outer tube **12**, an inner tube **11** structured, an adjusting screw **118'**, a radially spreadable element **116**, and an axially moveable interior element

117. The inner tube **11** is dimensioned for insertion into the outer tube **12** in a telescoping fashion. A limit stop **19** is disposed at an end **13** of the inner tube **11**. The adjusting screw **118'** is axially oriented within the outer tube **12**, non-rotatable with respect to the inner tube **11**, and supported in a fixed manner on the end of the inner tube **11**. A limit stop **126** is disposed on the free end of the adjusting screw **118'**. The spreadable element **116** has a non-threaded bore **A1** (see marked-up attachment) and an inner cone **122'**. The inner cone **122'** opens towards the end of the inner tube **11**. The spreadable element **116** is disposed with its axial length between the limit stop **19** disposed at the end of the inner tube **11** and the limit stop **126** disposed on the free end of the adjusting screw **118'**. A distance **A2** between the limit stops **19**, **126** is larger than the axial length of the radially spreadable element **116** by a gap distance **A3** such that the spreadable element **116** is able to move axially within the distance between the limit stops including the gap distance **A3**. The interior element **117** has an internal threaded bore **A4** and outer cone **127'** structured, dimensioned, and disposed for cooperation with the inner cone **122'**. The interior element **117** is screwed onto the adjusting screw **118'** and able to axially move with respect to the inner tube 11 by rotation thereof via the internal threaded bore **A4**. The spreadable element **116** and the interior element **117** cooperate and form a spreading device axially supported at the end of the inner tube **11**. The spreading element **116** has axial slots (see Figure 6).

However, Lenhart fails to disclose the inner cone **122'** being only one single inner cone of the spreadable element since spreadable element has two inner cones, and the

radially spreadable element being configured as a pot having a base penetrated by a free end area of the adjusting screw, facing away from the inner tube **11**. Further, Lenhart fails to disclose the interior element **117** having protruding fins respectively guided in the axial slots of the spreading element **32**.

Neuheiten teaches, between Figures 5 and 6, that a spreading element can have one inner cone or two inner cones as similarly taught in Lenhart. Neuheiten teaches alternative configurations in order to minimize parts. Therefore, as taught by Neuheiten, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the inner cone **122'** of Lenhart be the only one single inner cone to minimize the number of parts as an alternative configuration.

DSI teaches, in Figure 1, a radially spreadable element **10** configured as a pot having a base penetrated by a free end area of an adjusting screw **5** facing away from the inner tube **3** as an alternative configuration for a radially spreadable element **10** with having only one single inner cone (the conical surface). Therefore, as taught by DSI, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the configuration of the spreadable element **116**, as modified by Neuheiten, with that of DSI to use with the spreading element modified to have only one single inner cone.

Kupski teach, in Figure, 5, an interior element **17** having protruding fins **33** guided in axial slots **30** of a spreading element **16** to prevent the interior element from rotating relative to the spreading element. Therefore, as taught by Kupski, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a fin in the interior element of Lenhart guided in the axial slots of the spreading element of Lenhart to prevent the interior element from rotating relative to the spreading element.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lenhart, DE-29,706,849, in view of Neuheiten, CH-267,177, and further in view of Mazzolla, 4,238,164.

Regarding claim 16, Lenhart discloses, in Figures 1 and 5, an adjustable-length pole comprising at least one outer tube **12**, an inner tube **11** structured, an adjusting screw **118'**, a radially spreadable element **116**, and an axially moveable interior element **117**. The inner tube **11** is dimensioned for insertion into the outer tube **12** in a telescoping fashion. A limit stop **19** is disposed at an end **13** of the inner tube **11**. The adjusting screw **118'** is axially oriented within the outer tube **12**, non-rotatable with respect to the inner tube **11**, and supported in a fixed manner on the end of the inner tube **11**. A limit stop **126** is disposed on the free end of the adjusting screw **118'**. The spreadable element **116** has a non-threaded bore **A1** (see marked-up attachment) and an inner cone **122'**. The inner cone **122'** opens from an apex towards the end of the

inner tube **11**. The spreadable element **116** is disposed with its axial length between the limit stop **19** disposed at the end of the inner tube **11** and the limit stop **126** disposed on the free end of the adjusting screw **118'**. A distance **A2** between the limit stops **19**, **126** is larger than the axial length of the radially spreadable element **116** by a gap distance **A3** such that the spreadable element **116** is able to move axially within the distance between the limit stops including the gap distance **A3**. The interior element **117** has an internal threaded bore **A4** and outer cone **127'** structured, dimensioned, and disposed for cooperation with the inner cone **122'**. The interior element **117** is screwed onto the adjusting screw **118'** and able to axially move with respect to the inner tube 11 by rotation thereof via the internal threaded bore **A4**. The spreadable element **116** and the interior element **117** cooperate and form a spreading device axially supported at the end of the inner tube **11**. However, Lenhart fails to disclose the inner cone **122'** being only one single inner cone of the spreadable element since spreadable element has two inner cones. Further, Lenhart fails to disclose the radially spreadable element 116 furnished on an exterior periphery with four notches all axially and centrally symmetrical to each other and running in a longitudinal direction.

Neuheiten teaches, between Figures 5 and 6, that a spreading element can have one inner cone or two inner cones as similarly taught in Lenhart. Neuheiten teaches alternative configurations in order to minimize parts. Therefore, as taught by Neuheiten, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to make the inner cone **122'** of Lenhart be the only one single inner cone to minimize the number of parts as an alternative configuration.

Mazzolla teaches, in Figure 1, a radially spreadable element **12** furnished on an exterior periphery with three notches **44** all axially and centrally symmetrical to each other and running in a longitudinal direction to mate with an inner tube having corresponding projections **48**. Therefore, as taught by Mazzolla, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the radially spreadable element **12** with notches on the exterior periphery of the spreadable element such that the notches are centrally symmetrical to each other and running in a longitudinal direction to mate with the inner tube which can be modified to include projections mating with the notches. With respect to the quantity of four notches, it should be noted that the number of notches can be increased such that there are four or more notches that correspond to an equal amount of projections.

Allowable Subject Matter

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 11, the prior art of record does not disclose or suggest a adjustable-length pole comprising a radially spreadable element comprising a cylindrical shoulder having a smaller exterior diameter than a base of the spreadable element and facing an inner tube (lines 1-3) in combination with the spreadable element having a non-threaded bore and only a single inner cone (claim 8, lines 9-10). The closes prior art, Lindemann et al., 6,027,087, teach, in Figure 7, a shoulder 45A having a smaller exterior diameter than the base. However, the shoulder does not face the inner tube but rather the outer tube, or between the base and a top portion of the spreading element.

Response to Arguments

Applicant's arguments with respect to claims 8-10, 12, and 15-19 have been considered but are moot in view of the new grounds of rejection.

Conclusion

Applicant should also note that Figure 6 in Neuheiten, CH-267177, can be modified in reverse such that the taper 20 is separable and axially threaded into the threaded shank 12 as taught in DSI, or Lenhart, DE-29,706,849.

Applicant's amendment necessitated the new grounds of rejection presented in this Office action. In particular, the new limitations "non-rotatable with respect to the inner tube" in claims 8, 10, and 15-17, lines 6-7, "the distance between the limit stops is larger than the axial length of the radially spreadable element by a gap distance" in claims 8, 10, and 15-17, lines 14-16, and "an internal threaded bore and an outer cone tapering towards the free end of the adjusting screw" in claims 8, 10, 15-17, lines 19-20, necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-

7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Greg Binda/
Primary Examiner, Art Unit 3679

/E. G./

Examiner, Art Unit 3679

August 5, 2008

Attachments: one marked-up page of Lenhart, DE-29,706,849,
translation of DSI, DE-8,004,343,
machine translation of Neuheiten, CH-267,177,
machine translation of Lenhart, DE-29,706,849

Lenhart, DE-29,706,849U1

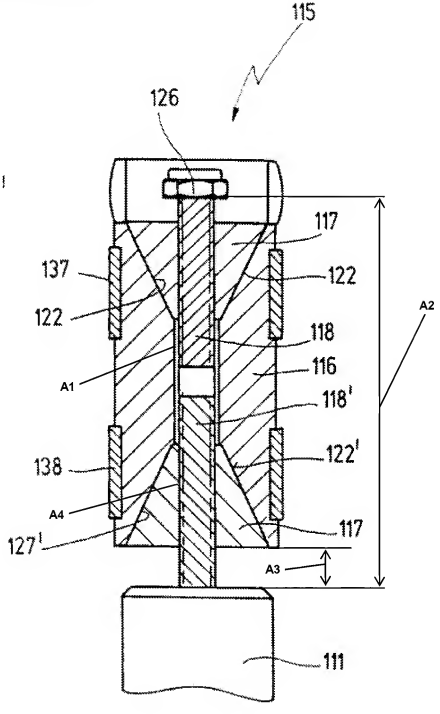

Fig. 5